

RHODES - VOIR DIRE

Previous Lawsuits/Juror Service

If any of you would answer yes to any of these questions, please raise your hand.

During the past five years, have any of you served on a jury or been excluded from a jury?

Was it a civil or a criminal case?

If civil, what, in general, was the case about?

Without telling me the outcome, or who won, please tell me whether or not the jury reached a verdict.

There is a substantial difference between the burden of proof in a criminal trial and the burden of proof in a civil trial. In a criminal trial, the prosecution prove all the essential facts **beyond a reasonable doubt**. By contrast, in a civil trial, such as this one, the burden of proof is less demanding. To win a civil case, plaintiff must prove all the essential facts by a **preponderance of the evidence**. After the jury takes into account the evidence the defendants have presented, the jury concludes that the essential facts are more likely true than not true.

Will you be able to put aside your prior jury experience as you sit in this case, to ignore completely anything you learned about the law or evidence in those cases, and decide this case solely on the basis of the evidence that I admit during this trial and on the law as I instruct you in it?

Have you ever suffered a serious emotional injury?

Have you, or has anyone in your immediate family, been a party (either as a plaintiff or as a defendant) to any lawsuit, civil or criminal?

If so, who (you or a family member) was the party to the case?

Was the person a plaintiff or a defendant?

Was a corrections officer or an inmate involved in that case?

What was the nature of the case?

Was it tried by jury? What was the outcome?

Is there anything about that experience that would cause you to question your ability to decide this case fairly and impartially, only on the basis of the evidence I admit during this trial and the law as I instruct you in it?

Have you ever been a witness in state or federal court in any lawsuit, civil or criminal?

Did you testify for the plaintiff or the defendant?

What was the nature of the case?

Is there anything about that experience that would cause you to question your ability to decide this case fairly and impartially, solely on the basis of the evidence I admit during this trial and the law as I instruct you in it?

Laws Generally

Have you, or has anyone in your immediate family or a close friend, attended law school or had any other training in the law?

If so, will you put whatever knowledge of the law you may have acquired before today out of your mind during this trial, and will you promise to apply only those legal principles in which I instruct you?

Do any of you have any specific feelings or opinions about lawsuits, lawyers or the parties who bring lawsuits, either positive or negative?

Plaintiffs in this case are asking for both compensatory and punitive damages. Compensatory damages include monetary costs to the plaintiff such as out-of-pocket past and future medical expenses. Punitive damages

include intangible costs such as physical pain, mental suffering, lost earning capacity, emotional distress, humiliation, and psychological trauma. Do any of you have any personal or moral objections to awarding punitive damages?

6. Plaintiffs in this case are seeking punitive damages as a means of punishing the defendants. Do any of you have feelings about awarding punitive damages so strong that they might affect your decision on whether to award punitive damages, one way or the other?

Relationship with Law Enforcement Agencies

1. Have any of you ever worked in law enforcement? If so, explain.
2. Have any of you ever known anyone who worked in law enforcement?
3. If so, who? When? Where? What did that person do?
4. Have any of you or any of your close relatives or friends ever been the victim of a crime? Describe the crime and outcome.
5. Have any of you or any of your close relatives or friends ever been incarcerated? If so, please elaborate.

Closing Questions

1. Do any you have any reluctance about serving as a juror?
2. Is there anyone who would feel any reluctance in joining the discussion with the members of the jury during deliberations?
3. Is there anyone who would feel offended if other members of the jury disagreed with their view of the evidence?
4. It is your duty as a juror to listen to the opinions and points of view

of the other members of the jury. Would any of you be unwilling to listen to a fellow juror who disagreed with you?

5. It is also your duty as a juror to express your opinion or point of view regarding the evidence to the other members of the jury.

6. Is there anyone who would be unwilling to speak up and try to persuade other members of the jury who disagreed with your view of the evidence?

7. Is there anyone who would be unwilling to change an opinion if, after listening to the arguments of the other members of the jury, you were persuaded that your opinion was wrong?

8. In a trial the plaintiffs put on their evidence first, and then the defendants have the opportunity to put on their evidence. Do any of you think you might have difficulty keeping an open mind regarding this case until you have heard all the evidence and I have instructed you on the law?

9. If you are selected to sit as a juror, will you be able and willing to render a verdict solely on the evidence presented at the trial and the law as I instruct you and not based upon your emotions, or any preconceived notions about the facts or the law in this case?

10. Is there anyone who thinks he or she cannot do that?

11. Do you understand that you must follow my instructions regarding the law whether you agree with the law or not? If that idea troubles you, please let me know.

12. As a juror, you may have to resolve conflicts in the testimony of witnesses. This means you may have to decide whether to believe or reject all or part of a witness's testimony or who is telling the truth. Is there any juror who feels this is not something he or she can do?

13. Can you think of any experience in your life or any other matter which occurs to you now that you think you should bring to my attention because it may have some bearing on your ability to be fair

as a juror in this case?

14. From what you have heard about this case thus far, is there anything that causes any of you to believe that you cannot be fair and impartial as a juror in this case?

15. Is there anything which has happened here this morning which any of you think may affect your ability to be fair and impartial to the parties that you have not told us about up to now?

16. Do you have any bias or prejudice, for or against, either of the attorneys in this case?

17. Is there any reason at all why you can't be absolutely fair to the plaintiffs in this case?

18. Is there any reason at all why you can't be absolutely fair to the defendants in this case?

19. Having heard all the questions put to you, do you know of any reason why you could not sit on this jury and render a fair verdict based on the evidence presented and the legal instructions I give you?